

EX PARTE OR LATE FILED



1320 Nineteenth Street, N.W., Suite 200 Washington, D.C. 20036 (202) 296-4933

RECEIVED

OCT - 4 1994

October 4, 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N. W.
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

RE: Ex Parte - MM Docket No. 92-266, Implementation of
Sections of the Cable Television Consumer Protection and
Competition Act of 1992: Rate Regulation

Dear Mr. Caton:

Please find enclosed the original and one copy of Cox Enterprises, Inc.'s Ex Parte presentation addressing the above referenced docket. If there are any questions concerning this matter, please contact the undersigned.

Sincerely,


Alexander V. Netchvolodoff

cc: Maureen O'Connell
Lisa Smith
Jill Luckett
Blair Levin
Mary McManus
Kathy Wallman

No. of Copies rec'd 8
List A B C D E

RECEIVED

OCT - 4 1994

October 4, 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

COX ENTERPRISES, INC.'S "MIGRATION" PROPOSAL

Issue: The Commission is considering a proposal in the cable "going forward" proceeding that would generally prohibit cable systems from "migrating" program services prospectively from existing regulated tiers to either new service tiers or "a la carte" packages. This proposal is designed to prevent operators from restructuring their service offerings in order to evade the Commission's rate regulations. If the policy were applied to all cable systems on a prospective basis, however, it would in effect penalize operators, such as Cox, who took a conservative approach and did not adopt an "a la carte" strategy when complying with rate regulation in September 1993. In contrast to their counterparts in the industry, these systems would be precluded from moving any channels out of their current regulated service offerings (except in very limited circumstances), even where migration would serve consumer interests and is not designed to evade rate regulation. The end result would be to reward those systems that aggressively interpreted the Commission's rate rules to their advantage, and punish those systems that pursued an approach which deferred to the Commission until it promulgated further guidance in this area.

Solution: Grant cable systems that have not previously migrated channels out of regulated tiers the flexibility to move a maximum of 3 channels from their current regulated offerings to new tiers or "a la carte" packages. Require that the new offering containing the migrated channels be affirmatively marketed to consumers. If the channels are placed in an "a la carte" package, require the system additionally to comply with the Commission's policies regarding such packages.

This limited exception to a general "anti-migration" policy would help ensure fair treatment for operators who have been the most diligent in fully complying with the Commission's rate regulations. It also would address the Commission's concerns that subscribers be protected from rate evasions because: (1) the regulated services currently offered by the affected system would remain essentially unchanged; (2) consumers would be able to purchase the migrated channels, and the new services potentially offered with them, at their option; and (3) the Commission's current policies protecting against evasions would remain in place. The exception also would acknowledge that there are legitimate business reasons for moving existing channels to other service offerings, and that systems that have not migrated program services in the past are more likely to be motivated by those legitimate reasons than by an evasatory strategy.

RECEIVED

OCT - 4 1994

October 4, 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

COX ENTERPRISES, INC.'S "MIGRATION" PROPOSAL

Issue: The Commission is considering a proposal in the cable "going forward" proceeding that would generally prohibit cable systems from "migrating" program services prospectively from existing regulated tiers to either new service tiers or "a la carte" packages. This proposal is designed to prevent operators from restructuring their service offerings in order to evade the Commission's rate regulations. If the policy were applied to all cable systems on a prospective basis, however, it would in effect penalize operators, such as Cox, who took a conservative approach and did not adopt an "a la carte" strategy when complying with rate regulation in September 1993. In contrast to their counterparts in the industry, these systems would be precluded from moving any channels out of their current regulated service offerings (except in very limited circumstances), even where migration would serve consumer interests and is not designed to evade rate regulation. The end result would be to reward those systems that aggressively interpreted the Commission's rate rules to their advantage, and punish those systems that pursued an approach which deferred to the Commission until it promulgated further guidance in this area.

Solution: Grant cable systems that have not previously migrated channels out of regulated tiers the flexibility to move a maximum of 3 channels from their current regulated offerings to new tiers or "a la carte" packages. Require that the new offering containing the migrated channels be affirmatively marketed to consumers. If the channels are placed in an "a la carte" package, require the system additionally to comply with the Commission's policies regarding such packages.

This limited exception to a general "anti-migration" policy would help ensure fair treatment for operators who have been the most diligent in fully complying with the Commission's rate regulations. It also would address the Commission's concerns that subscribers be protected from rate evasions because: (1) the regulated services currently offered by the affected system would remain essentially unchanged; (2) consumers would be able to purchase the migrated channels, and the new services potentially offered with them, at their option; and (3) the Commission's current policies protecting against evasions would remain in place. The exception also would acknowledge that there are legitimate business reasons for moving existing channels to other service offerings, and that systems that have not migrated program services in the past are more likely to be motivated by those legitimate reasons than by an evasary strategy.